No. 80-987

In the Supreme Court of the United States

OCTOBER TERM, 1980

STATE OF NEVADA, PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE RESPONDENTS IN OPPOSITION

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QUESTION PRESENTED

Whether 28 U.S.C. 2409a confers the consent of the United States to be sued in an action brought by the State of Nevada to quiet its title to the bed of Pyramid Lake.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-3a) is unreported. The opinion and judgment of the district court (App. A, *infra,* 1a-7a) are also unreported.

JURISDICTION

The judgment of the court of appeals was entered on September 18, 1980. The petition for a writ of certiorari was filed on December 16, 1980. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATUTES INVOLVED

28 U.S.C. 2409a and 5 U.S.C. 702 are set forth at Pet. App. 4a-6a.

STATEMENT

Pyramid Lake, a body of water approximately 20 miles long and 5 miles wide, is located within the boundaries of the Pyramid Lake Indian Reservation in the State of Nevada. Petitioner, the State of Nevada, brought this action in the United States District Court for the District of Nevada to quiet its title to the bed of Pyramid Lake. In its amended complaint the State designated as defendants the United States and various federal officials.[1].

The amended complaint alleges that Pyramid Lake is a navigable body of water within the State of Nevada (para. 1.6), and that "the State of Nevada was vested with title to the beds of all bodies of water then navigable upon admission to statehood in 1864 by the operative effect of the equal footing doctrine" (para. 1.4).

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[1]The officials were the Secretary of the Interior, the Commissioner of Indian Affairs, a local area director of the Bureau of Indian Affairs, and the superintendent of the Western Nevada Indian Agency, BIA.

The State in its complaint acknowledges that in 1859 the Commissioner of Indian Affairs, A.B. Greenwood, wrote a letter to the Commissioner of the General Land Office, S.A. Smith, requesting that a certain tract of land "now generally associated with the Pyramid Lake Indian Reservation" be "respected" upon the eventual survey plats and upon the books of the local land office (para. 1.8), and that the Pyramid Lake Reservation was surveyed in 1865 and established by executive order on March 23, 1874 (para. 1.12). The State contends, however, that neither the Commissioner nor the President had the authority to create reservations of public lands, or, in any event, to include within such reservations the beds of navigable bodies of water (paras. 1.9, 1.12). The State also contends that Commissioner Greenwood and other federal officials did not intend in 1859 to include the bed of Pyramid Lake in the Pyramid Lake Indian Reservation (para. 1.13), and that President Grant could not, by an executive order issued in 1874—10 years after Nevada's admission into the Union in 1864—have "cut off the State of Nevada's constitutional right to dominion and sovereignty over the beds of such waters which had vested in the meantime" (para. 1.12).

Respondents filed a motion to dismiss the amended complaint. On October 18, 1977, the district court granted the motion on the ground that the United States had not consented to be sued with respect to the subject matter of the suit, and that the action could not proceed against the federal officials alone (App. A, *infra*, 1a-7a).

The court of appeals affirmed (Pet. App. 1a-3a). Relying on its earlier decision in *Carlson* v. *Tulalip Tribes of Washington*, 510 F. 2d 1337 (1975), the court held (Pet. App. 2a) that "where the land which is the subject of the dispute is claimed by the Government to be Indian land, the Government is immune from suit because the Quiet Title Act 'does not apply to trust or restricted Indian

lands.' " Moreover, the court concluded that because the State knew of the government's claim more than twelve years before the action was filed, Nevada's suit was barred by the 12-year statute of limitations contained in 28 U.S.C. 2409a(f).

ARGUMENT

The decision of the court of appeals is correct and does not conflict with any decision of this Court or any other court of appeals. Further review is therefore unwarranted.

A threshold question in any suit to which the United States is named a defendant is whether Congress, by statute, specifically authorized the suit to be brought. As this Court recently reiterated in *United States* v. *Mitchell,* 445 U.S. 535, 538 (1980):

> It is elementary that "[t]he United States, as sovereign, is immune from suit save as it consents to be sued . . ., and the terms of its consent to be sued in any court define that court's jurisdiction to entertain the suit." *United States* v. *Sherwood,* 312 U.S. 584, 586 (1941). A waiver of sovereign immunity "cannot be implied but must be unequivocally expressed." *United States* v. *King,* 395 U.S. 1, 4 (1969).

Absent a showing of clear congressional consent, there is no jurisdiction in any court to entertain a suit—even one brought by a state—against the United States. See *California* v. *Arizona,* 440 U.S. 59, 61 (1979).

1. Petitioner places primary reliance (Pet. 20-22) upon 28 U.S.C. 2409a for its contention that the United States has waived its immunity in this case. In that statute, Congress provided a limited consent for suits against the United States to quiet title to real property. Two of the limitations upon that consent are pertinent here. The first is that "[t]his section does not apply to trust or restricted Indian lands," and the second, set forth in subparagraph (f), is that "[a]ny

civil action under this section shall be barred unless it is commenced within twelve years of the date upon which it accrued." The court of appeals properly concluded that the bed of Pyramid Lake, located entirely within the boundaries of the Pyramid Lake Indian Reservation, comes within the exception relating to "trust or restricted Indian lands," and that, in any event, this suit, initiated much more than 12 years after the State's cause of action accrued, is barred by the statutory condition for maintenance.

a. In support of its claim that the bed of Pyramid Lake is "trust or restricted Indian lands" and thus not within the purview of the consent to suit conferred by 28 U.S.C. 2409a, the government requested the district court to take judicial notice of the history of the establishment of the Walker River and Pyramid Lake Indian Reservations, as recounted in *United States* v. *Walker River Irrigation District*, 104 F. 2d 334, 338 (9th Cir. 1939); the conclusion, in the same case, that both reservations were established in 1859; President Grant's executive order of March 23, 1874, formally announcing the withdrawal of the Pyramid Lake Reservation;[2] and the statements of the district court in *United States* v. *Sturgeon*, 27 Fed. Cas. 1357, 1358 (D. Nev. 1879) (No. 16,413), that "the lake [*i.e.*, Pyramid Lake] was included in the reservation, that it might be a fishing ground for the Indians," and that "[w]hen the defendants [non-Indians] established their fisheries on the shores of the lake, they, contrary to law, appropriated to their own use a portion of that which the United States, acting through its duly authorized agents, had set apart for the use of the Pah Utes and other Indians." These facts clearly support the

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[2]Although, as petitioner points out (Pet. 8-9), the Ninth Circuit in *United States* v. *Southern Pacific Transportation Co.*, 543 F. 2d 676 (1976), noted that the Walker River Reservation was formally established by executive order in 1874 (*id.* at 681), the court also observed (*ibid.*, n.6) that "[w]e have held that the reservation was *actually* established by administrative action in 1859" (emphasis supplied).

conclusion, arrived at by both courts below, that this suit involves property with respect to which the United States expressly withheld its consent to be sued.

Petitioner argues (Pet. 16-20) that the district court could not dismiss the suit on the ground that the lands involved are "trust or restricted Indian lands" without first determining, on the merits, that the lands involved are, in fact, "trust or restricted Indian lands" (Pet. 16-23).[3] But this, of course, is not, and never has been, the law in quiet title actions to which the United States is a defendant. Before the enactment of 28 U.S.C. 2409a in 1972, the law was well settled that where the United States was the defendant in an action involving the title to property, and where its claim to the property raised questions of law and fact upon which the United States would have to be heard, by virtue of the doctrine of sovereign immunity the court was without jurisdiction to entertain the case. *Louisiana* v. *Garfield*, 211 U.S. 70, 77-78 (1908); *United States ex rel. Goldberg* v. *Daniels*, 231 U.S. 218 (1913); *New Mexico* v. *Lane*, 243 U.S. 52, 58 (1917); *Morrison* v. *Work*, 266 U.S. 481, 485-486 (1925). In each of these cases, as in the instant case, had the Court considered the issues on the merits and arrived at the

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[3]Citing *United States* v. Lee, 106 U.S. 196 (1882), and *Land* v. *Dollar*, 330 U.S. 731 (1947), petitioner argues (Pet. 16-17) that a court must make certain determinations on the merits before it can decide whether or not it has jurisdiction over a case. However, these cases merely stand for the proposition that a court must determine whether or not the United States is the real party in interest in an action—and thus, although unnamed, the real defendant—before it can dismiss the action as being barred by sovereign immunity. In some of the cases cited by petitioner, the United States was found to be the real party in interest, and in others it was not. But in no case was it held, after the United States was found to be the real party in interest, that the case could proceed on the merits. See *Larson* v. *Domestic & Foreign Corp.*, 337 U.S. 682, 703 (1949); *Malone* v. *Bowdoin*, 369 U.S. 643, 648 (1962). Here, the question whether the United States is the real, albeit unnamed, defendant does not arise, because the United States was expressly named by the State as a defendant in the amended complaint.

conclusion that the United States in fact had no interest in the property, then it could have exercised its jurisdiction. As Justice Holmes said in *Louisiana* v. *Garfield, supra,* 211 U.S. at 75, "[w]e will assume for purposes of decision that if the United States clearly had no title to the land in controversy we should have jurisdiction to entertain this suit * * *." But in each case, the mere fact that a trial would have to be held to resolve the questions of law and fact necessary to determine whether the United States had or did not have an interest, was sufficient to prevent the Court from exercising jurisdiction.

Louisiana v. *Garfield, supra,* was a case exactly like the present one, in that the plaintiff argued that since the United States had patented certain land and could not possibly have any interest in it, there could not be any doubt of the jurisdiction of the Court to entertain the suit. 211 U.S. at 73. The United States, however, contended that the patent pursuant to which the State claimed the land was void. This Court concluded that Louisiana might very well have title to the land because the then operative five-year statute of limitations for vacating patents (even, perhaps, if void) had run. *Id.* at 77. But the Court concluded (*id.* at 77-78) that the issue whether Louisiana had title could not be resolved because

> [i]t raises questions of law and of fact upon which the United States would have to be heard. * * * It follows that the United States is a necessary party and that we have no jurisdiction of this suit.

Thus the mere existence of reasonable arguments on behalf of the United States' claim to title to the lands in question—and not the resolution on the merits of those arguments—brought the subject matter of the action within the purview of the sovereign's immunity from suit, and removed the action from the jurisdiction of the Court.

Of course, the United States can now be sued, pursuant to the waiver of sovereign immunity contained in 28 U.S.C. 2409a, with respect to most property in which it claims an interest. That waiver, however, does not extend to suits concerning "trust or restricted Indian lands." As concerns such lands, Congress expressly refused consent to suit. In short, in enacting Section 2409a in 1972, Congress left matters where it found them with respect to trust or restricted Indian lands; the doctrine of sovereign immunity continues to shield the United States from suit on claims concerning such lands. Accordingly, just as, prior to 1972, the mere existence of reasonable arguments by the United States in support of its claim to title was sufficient to preclude a court's entertaining jurisdiction of a quiet title action against the United States, so today, the mere existence of reasonable arguments that the lands involved in this suit are trust or restricted Indian lands suffices to bar the action.

b. Furthermore, petitioner's suit is barred by the 12-year statute of limitations contained in 28 U.S.C. 2409a(f). The language of this section is clear: *any* civil action brought under Section 2409a is barred unless it is commenced within the prescribed 12-year period. The section sets forth no exceptions to this requirement. As the court of appeals noted (Pet. App. 3a), the federal claim to the bed of Pyramid Lake was known to the State of Nevada at least as early as 1877, when the Nevada legislature, in a Joint Memorial and Resolution asking the President to reduce the size of the Pyramid Lake Reservation, stated that "the reservation known as Pyramid Lake Reservation embraces a territory of fifty-two miles in length, and from twelve to seventeen miles in width, *including the entire body of water known as Pyramid Lake and eight miles of the Truckee River* * * *." 1877 Nev. Stats. 215 (emphasis supplied) (App. B, *infra*, 8a-9a). Because the State knew of the federal

government's assertion of dominion, on behalf of the Indians, of the lands and waters within the Pyramid Lake Reservation at least as early as 1877, its claim did not "accrue" within the 12-year period allowed by 28 U.S.C. 2409a(f), and was properly dismissed.

Petitioner's contention (Pet. 20-21) that the statutory period should begin to run from 1972, when 28 U.S.C. 2409a was enacted, is insubstantial. Prior to the enactment of the statute, of course, the courts were without jurisdiction to entertain any quiet title actions against the United States because Congress had not consented to such suits. The imposition of a 12-year period of limitations could not have extinguished any rights to sue the sovereign for the simple reason that no such rights existed prior to the statutory waiver of sovereign immunity. Moreover, the legislative history reveals that a proposal to make the Quiet Title Act fully retroactive was rejected because of congressional concern that the courts would be flooded with litigation involving stale claims. See H.R. Rep. No. 92-1559, 92d Cong., 2d Sess. 5 (1972). See also *Hatter* v. *United States*, 402 F. Supp. 1192, 1194 (E.D. Cal. 1975).

Similarly, the State's argument (Pet. 21) that the statutory period never started to run because the United States never had a colorable claim of title to Pyramid Lake is not well taken. Statutes of limitations in suits against the United States are to be strictly construed (see *Soriano* v. *United States*, 352 U.S. 270, 276 (1957)), and petitioner has failed to meet its burden of showing that it is somehow exempt from the statutory language because of the alleged invalidity of the government's claim. In any event, as we have shown (pages 4-5, *supra*), the United States has reasonable arguments in support of its claim.

2. Petitioner's contention (Pet. 22-23) that 5 U.S.C. 702, as recently amended, permits the maintenance of this suit may be quickly disposed of. In 1976 Congress amended 5

U.S.C. 702 to withdraw "the defense of sovereign immunity in actions seeking relief other than money damages * * *." H.R. Rep. No. 94-1656, 94th Cong., 2d Sess. 4 (1976). However, Section 702 contains an explicit limitation to its waiver of sovereign immunity:

> Nothing herein * * * confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief that is sought.

Under 28 U.S.C. 2409a Congress granted consent to sue the United States in quiet title actions but it withheld consent to suit in such actions involving "trust or restricted Indian lands," and it barred causes of action accruing more than 12 years prior to the filing of the complaint. Section 2409a, therefore, clearly forbids the relief that is sought here, and, accordingly, the waiver contained in 5 U.S.C. 702 does not permit the maintenance of this action.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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FEBRUARY 1981

DOJ-1981-02

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Civil No. R-76-235 BRT

State of Nevada, Plaintiff,
v.
United States of America,
Cecil D. Andrus, Secretary
of the Interior, et al., Defendants.

ORDER DISMISSING AMENDED COMPLAINT

This matter came on regularly before the Court on defendants' motion to dismiss the amended complaint, and the Court has considered the memoranda and oral arguments of counsel.

Plaintiff is the State of Nevada.

Defendants include the United States of America, the Secretary of the Interior, the Commissioner of the Bureau of Reclamation, the Director of the Fish and Wildlife Service, the Commissioner of Indian Affairs, the Regional Director, Mid-Pacific Region, Bureau of Reclamation, the Regional Director of the Fish and Wildlife Service, and the Area Director of the Bureau of Indian Affairs.

The State of Nevada originally brought this action on December 8, 1976, naming as defendants the Secretary of the Interior, the Commissioner of Indian Affairs, the Area Director of the Bureau of Indian Affairs and the Superintendant of the Western Nevada Indian Agency. In its original complaint, the State sought to quiet title to the beds of Pyramid Lake and the Lower Truckee River (Complaint, pp. 11-12, pars. 1 and 6); sought to quiet title to the Marble Bluff Dam and Fishway (Complaint, p. 11, par. 2); sought

an order enjoining both the federal defendants and the Pyramid Lake Paiute Tribe from collecting fees for the use of Pyramid Lake or from interfering with the state's enforcement of its laws on the lake (Complaint, p. 11, pars. 3-4); and sought to gain access to certain data being collected by the federal government concerning the lake and river (Complaint, p. 11, par. 5).

By order filed May 18, 1977, the original complaint was dismissed, the Court having concluded that the suit was against the United States, which, absent its consent, could not be maintained by the State.

On June 1, 1977, the State of Nevada filed an amended complaint which is the subject of the instant motion to dismiss. The United States was joined as a party defendant. The relief sought by the State remains virtually the same as had been requested in the original complaint except that the request for affirmative relief aimed directly at the Tribe was dropped as has been the request for data resulting from the government's studies on Pyramid Lake.

Pyramid Lake, the Lower Truckee River, and the Marble Bluff Dam and Fishway are also located within the exterior boundaries of the Pyramid Lake Indian Reservation. The nature and extent of the interests claimed by the State of Nevada in these properties has been sufficiently set forth in the amended complaint and plaintiff's memorandum of points and authorities in opposition to defendants' motion to dismiss the amended complaint.

The defendants have moved this Court, pursuant to Rule 12(b)(1) Fed. R. Civ. P., to dismiss the amended complaint on the grounds that this Court lacks jurisdiction over the subject matter. Other grounds for dismissal have also been advanced, but since the lack of jurisdiction over the United States is dispositive of the suit, those questions need not be addressed.

Inasmuch as the United States has been joined as a defendant in this case, the sole issue before this Court is whether the United States has, in fact, waived its sovereign immunity.

It is well settled that the United States is immune from suit unless it has consented to be sued. *United States* v. *Sherwood,* 312 U.S. 584, 586 (1941); *Morris* v. *United States,* 521 F. 2d 872 (9th Cir. 1975). Absent a waiver of sovereign immunity by specific congressional consent, federal district courts have no jurisdiction over claims against the *United States.* See, *United States* v. *Hennen,* 300 F. Supp. 256 (D.C. Nev. 1968).

In the present case, the plaintiff has alleged that jurisdiction in this Court and over the United States exists by virtue of title 28 U.S.C. Sections 1346(f) and 2409a.

Section 1346(f) is merely a grant of general jurisdiction giving federal district courts exclusive original jurisdiction of civil actions arising under title 28 U.S.C. Section 2409a, and does not, in and of itself, constitute a waiver by the United States of its immunity from suit. Section 2409a, in effect, waives the defense of sovereign immunity in actions against the United States in civil actions to adjudicate disputed titles to real property in which the United States claims an interest. This statute, however, specifically excepts "trust and restricted Indian lands" from the waiver of sovereign immunity.

By the very nature of a quiet title action, the plaintiffs are attempting to establish their title in the land by bringing in an adverse claimant. In cases like this, where the United States is the adverse claimant, this Court is precluded from obtaining jurisdiction unless Congress has provided an express statutory waiver of sovereign immunity. Neither sections 1346(f) nor 2409a grant such a waiver.

To hold, in effect, that this Court could proceed to a determination on the merits of this case in arriving at a decision whether it has jurisdiction would emasculate the congressional intent behind section 2409a and render the specific exception meaningless.

In *Mashpee Tribe* v. *New Seabury Corp.*, 427 F. Supp. 899, 903-904 (D. Mass. 1977), the district court was specifically confronted with the issue of whether it had jurisdiction over a similar quiet title dispute where it had not been determined if the land in controversy was "trust or restricted Indian land." In rejecting an argument, similar to that posed by the plaintiffs in the present case, the district court noted:

> "The Town relies on *United States* v. *Phillips*, 362 F. Supp. 462 (D. Nev. 1973), for the proposition that where it has not been determined that land is 'trust or restricted Indian lands', the United States has effectively waived sovereign immunity in § 2409a. The major ground in Phillips for finding a waiver, however, was that the United States brought the action to quiet title in the first place and has thus waived immunity with respect to the very issues raised in a counter-claim by the defendant to quiet title. There is no basis for extending the waiver to an action which the United States has not voluntarily initiated. Such an extension would violate both the requirement that a statutory waiver of sovereign immunity be strictly construed, *Nickerson* v. *United States*, 513 F. 2d 31, 33 (1st Cir. 1975), and the rule that ambiguities in statutes relating to Indians should never be construed to the Indian's prejudice. *Joint Tribal Council of the Passamquoddy Tribe* v. *Morton*, 528 F. 2d 370, 380 (1st Cir. 1975)."

In addition, we believe that this Circuit's decision in *Carlson* v. *Tulalip Tribes of Washington*, 510 F. 2d 1337, 1339 (9th Cir. 1975), effectively precludes any action from

being maintained against the United States in circumstances where the land in controversy is trust or restricted Indian land and the United States has not waived its immunity from suit.

For the reasons set forth above, the Court finds and concludes that the sovereign immunity of the United States has not been waived and that the Court thus lacks jurisdiction over the subject matter of this suit. Fed. R. Civ. P. 12(b)(1).

Additionally, the Court finds and concludes that jurisdiction over the subject matter of this suit cannot be founded upon the Tucker Act, 28 U.S.C. § 1346(a)(2). Jurisdiction under the Tucker Act was not pled in the amended complaint, nor were damages requested in the prayer for relief. This basis for jurisdiction was instead raised for the first time in the State's memorandum of points and authorities in opposition to defendants' motion to dismiss the amended complaint, pp. 27-29. It is apparent that the State does not invoke the Tucker Act in order to recover damages. Instead, the State seeks to use that statute to gain a declaratory judgment that the property in question is not trust or restricted Indian lands, thereby coming within the provisions of 28 U.S.C. 2409a, (Memorandum, p. 28). The Tucker Act, however, authorizes suits against the United States only for money damages, not for declaratory or other relief. *United States* v. *Testan,* 424 U.S. 392 (1976); *Lee* v. *Thornton,* 420 U.S. 139 (1975). Further, the statute is general in character and must give way to an applicable special provision in another federal statute. *Fritz* v. *United States,* 535 F. 2d 1192 (C.A. 9, 1976).

The Court further finds and concludes that the suit cannot proceed againt the federal defendants alone. Relief sought nominally against an officer is in fact against the sovereign if the decree would operate against the latter. See *Dugan* v. *Rank,* 372 U.S. 609 (1963); *Malone* v. *Bowdoin,*

369 U.S. 643 (1962); *Larson* v. *Domestic & Foreign Corp.*, 337 U.S. 682 (1949). Here the relief requested would require federal officials' affirmative action, would affect the public administration of government agencies and cause the disposition of property held, claimed and in the possession of the United States.

ORDER

Therefore, IT IS HEREBY SO ORDERED that defendants' motion to dismiss the amended complaint be, and hereby is, granted.

DATE: October 18, 1977.

/s/ Bruce R. Thompson

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Civil No. R-76-235 BRT

STATE OF NEVADA, PLAINTIFF,
v.
UNITED STATES OF AMERICA,
CECIL D. ANDRUS, SECRETARY
OF THE INTERIOR, ET AL., DEFENDANTS.

JUDGMENT

In accordance with the Order this day entered in the action entitled above, IT HEREBY IS

ORDERED, ADJUDGED AND DECREED that defendants' motion to dismiss the amended complaint be, and hereby is, granted.

DATE: October 18, 1977.

/s/ Bruce R. Thompson
United States District Judge

APPENDIX B

[Extract from page 215 of *Statutes of the State of Nevada Passed at the Eighth Session of the Legislature, 1877,* Carson City, John J. Hill, State Printer, 1877.]

EIGHTH SESSION.

No. IX. — *Joint Memorial and Resolution relative to Pyramid Lake Reservation in the State of Nevada.*

[Passed January 29, 1877.]

To the President of the United States:

Your memorialist, the Legislature of the State of Nevada, most respectfully represent: That the reservation known as Pyramid Lake Reservation embraces a territory fifty-two miles in length, and from twelve to seventeen miles in width, including the entire body of water known as Pyramid Lake and eight miles of the Truckee River; and that said territory is rich in mineral and agricultural resources; and that already on said reservation, and adjoining the same, have been discovered three mining districts, rendering it of great importance that the same should be opened to settlement as other government lands.

Your memorialist would further represent: That the Indians have not at any time, and do not now reside on any portion of said reservation bordering on said lake, but they are confined exclusively to the ground on the Truckee bottoms, near the agency buildings; that no more than one hundred Indians ever reside thereon, the balance being scattered over the State, in the vicinity of towns and cities; and that by continuing the said reservation, a large and fertile region of country is withdrawn from settlement by white citizens, and at the same time is useless to and unused by the said Indians; and that

WHEREAS, Said reservation was created by proclamation of the President, your memorialist would respectfully

ask that the same be, by proclamation, reduced and confined to and commencing at the southern boundary of said reservation as now established, and extending northerly from said boundary eighteen miles, following the course of the Truckee River, and extending back three miles from said river upon either and both sides, including the agency buildings and all other improvements made by the Government; also, to reserve to the Indians the exclusive right and privilege to fish within the waters of the said Pyramid Lake; therefore, be it

Resolved, That his Excellency, the Governor, be requested to transmit this memorial to the President of the United States and that our Senators and Representative be instructed to use all honorable means to obtain a favorable consideration of this memorial.